

EXHIBIT 4

9/11/2019

Gmail - Re: Class Plaintiffs' response (Earley and Croft)



Alex Rusek <alexrusek@gmail.com>

Re: Class Plaintiffs' response (Earley and Croft)

1 message

Juan Mateo <mateoja@aol.com>

Wed, Sep 11, 2019 at 12:16 PM

To: alexrusek@whitelawpllc.com, hammoudf1@michigan.gov, KingP1@michigan.gov

Cc: jameswhite@whitelawpllc.com, flint@whitelawpllc.com

Solicitor General Hammoud,

Good morning. Mr. Rusek position is well grounded and we join in his request. My guess is that complying with the request may not be an easy task since there is no way we can discern, on our end, what materials we were provided are covered by the statute other than the transcripts of the investigative depositions and the exhibits marked during the depositions. We are open to any suggestions that will address our concerns.

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-----Original Message-----

From: Alexander S. Rusek <alexrusek@whitelawpllc.com>

To: hammoudf1 <hammoudf1@michigan.gov>; King-Piepenbrok, Pier (AG) <KingP1@michigan.gov>

Cc: Juan Mateo <mateoja@aol.com>; James White <jameswhite@whitelawpllc.com>; flint <flint@whitelawpllc.com>

Sent: Wed, Sep 11, 2019 11:51 am

Subject: Re: Class Plaintiffs' response (Earley and Croft)

Good Morning Solicitor General Hammoud,

Thank you for your prompt attention to this issue, it is appreciated.

In regards to materials previously produced by Mr. Flood, some are marked confidential and indicate that they were the product of an investigative subpoena (such as transcripts of depositions taken pursuant to MCL 767A.1, *et seq.*). However, the vast majority of documents are not marked as the product of an investigative subpoena or otherwise designated as confidential or not confidential. Mr. Flood has complicated this matter as he asserted to counsel for multiple defendants that the materials produced by his office were obtained via investigative subpoenas and were privileged, confidential, or otherwise non-disclosable. As I was never provided copies of the investigative subpoenas (or applicable search warrants), I unfortunately do not have the ability to discern what may or may not be confidential materials obtained pursuant to MCL 767A.1, *et seq.* at this time.

As you know, Mr. Croft has been served with Requests to Produce Documents in the civil Flint Water Cases pending before Judge Levy. Arguably, these Requests seek information disclosed during the prior criminal proceedings, including materials that are reasonably known to have been obtained through investigative subpoenas and other materials that are believed to have been obtained through investigative subpoenas. As such, I am requesting that your office review the previous discovery productions by Mr. Flood and let me know what materials were and were not obtained through investigative subpoenas. At this time, I intend to object to any request to produce documents that may be confidential and prohibited from disclosure under MCL 767A.1, *et seq.* consistent with your citations to MCL 767A.8 and *Tuel v. City of Dearborn* 291 Mich. App. 125 (2010).

Again, thank you for your assistance in this matter.

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Have a great day,

Alex

On Mon, Sep 9, 2019 at 2:30 PM King-Piepenbrok, Pier (AG) <KingP1@michigan.gov> wrote:
Sent on behalf of Solicitor General Fadwa A. Hammoud:

Dear Messrs. Mateo and Rusek,

Thank you for volunteering to coordinate a response to the Class Plaintiffs' 8/16/19 requests for documents served on Darnell Earley and Howard Croft. After careful review, the criminal side of the Department of Attorney General's conflict wall has decided not to participate in the responses or otherwise seek a protective order.

That said, as Mr. Rusek acknowledged in an email to Sunita Doddamani dated 9/1/19, you are precluded from divulging, "to any person," materials in your possession that were gathered pursuant to investigative subpoenas. MCL 767A.8. See also *Truel v City of Dearborn*, 291 Mich App 125, 133-135 (2010) (holding that MCL 767A.8 limits discovery in civil actions and can be invoked in response to motions to compel). If you have any doubt whether a particular document initially was obtained pursuant to an investigative subpoena, please contact me and I will get clarification from my team.

Fadwa A. Hammoud
Solicitor General
Michigan Dept of Attorney General
(313) 456-0240



The attached documents are of a confidential legal nature. If they are received by anyone other than the person or department to whom they are directed, the recipient is expected to honor that confidentiality and turn them over to the addressee or, if misdirected, to destroy them and contact the sender.

—
Alexander S. Rusek

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